

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  TERRIL TELEPHONE COMPANY AND TERRIL TELEPHONE COOPERATIVE	DOCKET NO. SPU-00-1
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**ORDER APPROVING JOINT APPLICATION FOR DISCONTINUANCE OF  
SERVICE AND TRANSFER OF CERTIFICATE**

(Issued March 22, 2000)

On January 24, 2000, Terril Telephone Company (Company) and Terril Telephone Cooperative (Cooperative) (collectively, Joint Applicants) filed a joint application pursuant to Iowa Code § 476.20 (1999) for discontinuance of service and Iowa Code § 476.29 for transfer of a certificate. The Joint Applicants state that they have entered into a plan of liquidation for the purpose of converting to a cooperative. Upon implementation of the plan of liquidation, Cooperative will own all the assets and liabilities of Company and all shares owned by Company will be canceled and Company dissolved. The acquisition will result in the discontinuance of service in the Terril exchange by Company and continuation of the existing service by Cooperative.

The Joint Applicants ask to have the certificate of public convenience and necessity presently issued to Company for service in the Terril exchange transferred to Cooperative. The Joint Applicants further seek Board approval of the proposed discontinuance of service by Company in the Terril exchange.

The Joint Applicants state that Company is a non-rate regulated local exchange carrier providing service in the Terril exchange. Cooperative is an Iowa

cooperative association organized on July 16, 1999, for the purpose of converting Company to a cooperative. Cooperative does no business other than hold 3,489 of the 3,495 shares of Company. Cooperative is not currently a telecommunications carrier.

Iowa Code § 476.20 provides in relevant part that a utility shall not discontinue service to a community unless permission to do so is obtained from the Board. Rule 199—7.12(5) states that an application to discontinue service incident to a utility property transfer will be granted "if the board finds the transferee is ready, willing, and able to provide comparable utility service." Finally, Iowa Code § 476.29(3) provides for the transference of a local exchange certificate of public convenience and necessity, subject to the Board's approval pursuant to Iowa Code § 476.20(1).

The Joint Applicants make the following additional allegations in support of their requests: Company provides service to approximately 500 access lines in its Terril exchange and has done so for nearly 82 years. With only a conversion to a cooperative, Company's history of providing service in the Terril exchange demonstrates experience in providing such service in compliance with the Board's rules and requirements. After the liquidation, Terril will become the exchange of Cooperative, charging the current rates charged to Terril customers by Company, pursuant to the same tariffs and maps.

The Joint Application requests a waiver of 199 IAC 22.23 to the extent that the anti-slamming provision may be implicated by this transfer of service from Company to Cooperative. The Board's focus in this review is to determine if the transferee is ready, willing, and able to provide comparable utility service. Pursuant to

199 IAC 7.12, once the Board makes such a finding, the application will be granted. Inherent in that grant of authority to discontinue service by one company and the transference of its certificate of public convenience and necessity is a recognition that the customers will be transferred to the new certificate holder. The Board finds that this transfer of all customers to the new certificate holder is not a prohibited change in telecommunications service under 199 IAC 22.23(2), which states that "[N]o telecommunications carrier shall **submit a preferred carrier change order** to another service provider." No "change order" is being submitted in the situation of discontinuance of service by one company and a transfer of its certificate to another company pursuant to Iowa Code §§ 476.20 and 476.29 (1999). A waiver is not necessary in this filing.

The Joint Applicants state that there will be no change in employees. In addition, Cooperative lists its principal office at 107 South State Street, Terril, Iowa, which is the same location shown as the principal office of Company.

No objections to the joint application have been filed with the Board.

Based upon the record before it, the Board finds that Cooperative is ready, willing, and able to provide utility service in the Terril exchange that is comparable to the service presently provided by Company. The Board approves Company's application to discontinue service to the Terril exchange, pursuant to 199 IAC 7.12 and Iowa Code § 476.20(1) (1999). The Board also approves the request to transfer Company's certificate to serve the Terril exchange to Cooperative, pursuant to Iowa

Code § 476.29(3) (1999). Cooperative will be required to file new tariffs in its name within 30 days of this order.

**IT IS THEREFORE ORDERED:**

1. The joint application for approval of discontinuance of service and transference of certificate, filed January 24, 2000, by Terril Telephone Company and Terril Telephone Cooperative is approved.
2. A certificate identified as Certificate No. 0211 is issued to Terril Telephone Cooperative with this order.
3. A cancellation of certificate, identified as Certificate No. 0129 issued to Terril Telephone Company, accompanies this order.
4. Terril Telephone Cooperative is directed to file new tariffs in its name within 30 days of this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

Dated at Des Moines, Iowa, this 22<sup>nd</sup> day of March, 2000.